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Attorneys for Plaintiff FINISAR CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FINISAR CORPORATION, a Delaware
corporation,

Plaintiff,

v.

U.S. BANK TRUST NATIONAL
ASSOCIATION, a national banking
association, not in its individual capacity,
but solely in its capacity as Indenture
Trustee in behalf of all Holders of Finisar
Corporation's 5¼% Convertible
Subordinated Notes due 2008, 2½%
Convertible Senior Subordinated Notes due
2010, and 2½% Convertible Subordinated
Notes due 2010; and DOES 1 through 10,
inclusive,

Defendants.

AND RELATED COUNTERCLAIMS.

Case No. 5:07-CV-04052-JF (PVT)

**PLAINTIFF FINISAR CORPORATION'S
REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF ITS MOTION FOR
SUMMARY JUDGMENT**

Date: **Friday, July 11, 2008**
Time: **9:00 a.m.**
Courtroom: **3**

District Judge: Hon. Jeremy Fogel
Magistrate Judge: Hon. Patricia V. Trumbull

Complaint Filed: June 22, 2007
Trial Date Set: None Yet

1 Plaintiff Finisar Corporation ("Finisar") respectfully request that the Court take judicial
2 notice, in connection with "Plaintiff Finisar Corporation's Motion for Summary Judgment," of
3 the following:

4 1. SENATE REPORT NO. 76-248 (1939), truly and correctly reproduced as Exhibit "A"
5 hereto;

6 2. HOUSE OF REPRESENTATIVES REPORT NO. 76-1016 (1939), truly and correctly
7 reproduced as Exhibit "B" hereto;

8 3. The cover page and Articles Four through Seven of the "Indenture" comprising
9 Exhibit "1" to "Plaintiff Landry's Restaurants, Inc.'s Verified Original Complaint and
10 Application for Temporary Restraining Order," filed on August 1, 2007 in *Landry's Restaurants,*
11 *Inc. v. Post Advisory Group, LLC, et al.*, Case No. 3:07-CV-406 in the United States District
12 Court for the Southern District of Texas, truly and correctly reproduced as Exhibit "C" hereto;

13 4. "U.S. Bank National Association's Opposition to Preliminary Injunction," filed on
14 August 16, 2007 in *Landry's Restaurants, Inc. v. Post Advisory Group, LLC, et al.*, Case No.
15 3:07-CV-406 in the United States District Court for the Southern District of Texas, truly and
16 correctly reproduced as Exhibit "D" hereto; and

17 5. "Defendants' Sur-Reply to Plaintiff's Reply in Further Support of its Request for
18 Declaratory Judgment," filed on October 16, 2007 in *Beazer Homes USA, Inc. v. U.S. Bank*
19 *National Association*, Civil Action File No. 1:07-2006 in the United States District Court for the
20 Northern District of Georgia, truly and correctly reproduced as Exhibit "E" hereto.

21 DATED: June 6, 2008

Respectfully submitted,

22 Sterling A. Brennan
23 L. Rex Sears
WORKMAN NYDEGGER A PROFESSIONAL CORPORATION

24 Caroline McIntyre
25 BERGESON, LLP

26 By /s/ Sterling A. Brennan
27 Sterling A. Brennan
Attorneys for Plaintiff FINISAR CORPORATION
28

CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:
D. Anthony Rodriguez, drodriguez@mofo.com; Abby E. Wilkinson, awilkinson@faegre.com; Eva K. Schueller, eschueller@mofo.com; Michael B. Fisco, mfisco@faegre.com; Edward T. Wahl, ewahl@faegre.com and Paul T. Friedman, pfriedman@mofo.com.

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